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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,585	06/03/2002	Yoichiro Sako		8333
7590	07/12/2005		EXAMINER	
Jay H Maioli Cooper & Dunham 1185 Avenue of the Americas New York, NY 10036			HUBER, PAUL W	
		ART UNIT	PAPER NUMBER	2653

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/018,585	SAKO ET AL.	
	Examiner	Art Unit	
	Paul Huber	2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 May 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 21-29 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 21,23-26,28 and 29 is/are rejected.

7) Claim(s) 22 and 27 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

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The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 21, 23-26, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mons et al. (WO 96/19807) considered with Aramaki (USP-5,541,905).

Mons et al. discloses a recording method for recording information on a recording medium. "The control program [of figure 5] may also be used for writing and erasing information in the record carrier. During writing it is determined in step 40 where and on which information layer the block of user information can be written" (page 8, lines 11-13). The recording medium includes a control block 26 (claimed "table of contents") which "comprises a first sub-block 32 with information about the record carrier as a whole. The information may comprise a type indication of the record carrier, an indication of the number of information layers and the number of blocks of user information in the record carrier, parameters for the radiation beam for writing and reading, information about encryption of the stored information, a table of contents with a global indication of the user information stored in each layer ..." (page 6, line 31, through page 7, line 2). In addition, the recording medium "is suitable for storing [audio] information in two different formats" (page 8, line 34, through page 9, line 1). With a recording medium of this type, "a first information layer comprises user information in a first format and a second information layer comprises the same user information

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in a second format" (page 4, lines 1-3). During a recording operation of a recording medium, the control block 26 is reproduced from the recording medium (figure 5; step 38). If the recording medium is of the type which records information in two different formats, it is necessary and inherent in the recording operation of figure 5 that the recording medium is identified as this type with reference to the "type indication of the record carrier" determined in step 38 through reading of control block 26. Of course, if the recording medium is a read-only medium, analysis of "type indication of the record carrier" through reading of control block 26 will determine that a recording operation on the medium is not possible. Accordingly, Mons et al. discloses both the "identifying" steps as claimed.

Furthermore, in step 40, it is determined where and on which information layer a particular block of user information is to be written. This operation is performed through analysis of control block 26 "with a global indication of the user information stored in each layer" (page 7, lines 1-2). However, if the recording medium has yet to be recorded with user information ("blank medium"), analysis of control block 26 will indicate this fact. Accordingly, it is inherent that when a blank medium is inserted, a determination is made through analysis of control block 26 that no recording has yet been performed.

Mons et al. discloses the invention as claimed, but fails to specifically teach the step of notifying whether the recording medium is defined as a recording medium for recording the two kinds of audio data when the recording medium is a medium in which no recording has yet been performed. Aramaki discloses a disk player including an indication device for indicating identification type of a disk loaded into the disk player according to identification information obtained by a disk identifying device, in the same field of endeavor, for the purpose of allowing a user to immediately recognize the kind of disk loaded into the disk player or kept in the loaded condition. See abstract.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mons et al. such that the recording method further includes the step of notifying whether the recording medium is defined as a recording medium for recording the two kinds of audio data when the recording medium is a medium in which no recording has yet been performed, as claimed and as taught by Aramaki. A practitioner in the art would have been motivated to do this for the purpose of allowing a user to immediately recognize the kind of disk loaded into the disk player or kept in the loaded condition, i.e., that the disk is of the type which records information in two different formats.

Further regarding claim 24, when the recording method determines that the medium is of the type which records information in two different formats and a recording operation is to be performed, one of the two recording formats must be initially designated when a process of the recording start is designated. Accordingly, an

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identification of the medium notifies to the encoder/processor that it is necessary to designate the recording format when a process of the recording start is designated as claimed.

Further regarding claims 28 & 29, when the recording method determines that the writable medium is not of the type which records information in two different formats and a recording operation is to be performed, the method starts a process of recording when a recording format is designated and when it is decided that a recording medium is defined not to record the two kinds of audio data as claimed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited on the PTO-892 each disclose an apparatus for recording and/or reproducing information with different formats.

Claims 22 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication should be directed to Paul Huber at telephone number 571-272-7588.



Paul Huber
Primary Examiner
Art Unit 2653

pwh
June 28, 2005